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MONTANA LEGISLATIVE HISTORY

Chapter 502 19 99

Bill H _____ S 458 Original bill & history X C

H. Committee on Fish, Wildlife & Parks			S. Committee on Fish & Game		
Hearing Date(s)	3-11	✓ C	Hearing Date(s)	2-16	✓ C
EXEC ACTION	3/23	X C	EXEC. ACTION	2/18	X C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

SB 457 Introduced by Cocchiarella *LC1535 Drafter: Heffelfinger*

Provide That Certain Optional Retirement Benefits Selected by a Retired Member of the Public Employees', Judges', Sheriffs', and Game Wardens' and Peace Officers' Retirement Systems Will Revert Back to the Regular Retirement Benefit upon the Member's Request If the Member's Contingent Annuitant Dies or If the Member's Marriage to the Contingent Annuitant Is Dissolved and the Dissolution Settlement or Family Law Order Does Not Entitle the Contingent Annuitant to the Optional Benefit;...

1/07	Fiscal Note Needed		
2/11	Introduced and 1st Reading		
2/11	Referred to State Administration		
2/11	Fiscal Note Requested		
2/15	Fiscal Note Received		
2/15	Fiscal Note Signed		
2/16	Fiscal Note Printed		
2/17	Hearing		
2/19	Committee Executive Action--Bill Passed	5	0
2/20	Committee Report--Bill Passed		
2/22	2nd Reading Passed	49	0
2/23	3rd Reading Passed	49	0
	Transmitted to House		
3/02	Referred to State Administration		
3/11	Hearing		
3/11	Committee Executive Action--Bill Concurred	17	0
3/12	Committee Report--Bill Concurred		
3/20	2nd Reading Concurred	90	7
3/22	3rd Reading Concurred	93	7
	Returned to Senate		
3/23	Sent to Enrolling		
3/23	Returned from Enrolling		
3/25	Signed by President		
3/26	Signed by Speaker		
3/29	Transmitted to Governor		
3/30	Signed by Governor		
3/31	Chapter Number Assigned		
	Chapter Number 217		
	Effective Date: 10/01/1999 - All Sections		

SB 458 Introduced by F. Thomas, et al. *LC1285 Drafter: Higgins*

Revise the Restitution and Penalties for Illegally Killing or Possessing Game Animals;...

12/16	Fiscal Note Needed		
2/11	Introduced and 1st Reading		
2/11	Referred to Fish and Game		
2/11	Fiscal Note Requested		
2/15	Fiscal Note Received		
2/15	Fiscal Note Signed		
2/16	Fiscal Note Printed		
2/16	Hearing		
2/20	Committee Executive Action--Bill Passed as Amended	11	1
2/20	Committee Report--Bill Passed as Amended		
2/23	2nd Reading Passed	46	3

2/24	3rd Reading Passed	44	5
	Transmitted to House		
3/02	Referred to Fish, Wildlife, and Parks		
3/11	Hearing		
3/24	Committee Executive Action--Bill Concurred	14	6
3/24	Committee Report--Bill Concurred		
3/31	2nd Reading Concur Motion Failed	48	52
3/31	Segregated from Committee of the Whole Report	54	45
4/01	2nd Reading Concurred as Amended	85	14
4/01	3rd Reading Concurred	83	15
	Returned to Senate with Amendments		
4/08	2nd Reading House Amendments Not Concurred	50	0
4/09	Free Conference Committee Appointed		
4/13	Hearing		
4/13	Free Conference Committee Report Received		
4/14	2nd Reading Free Conference Committee Report Adopted	50	0
4/15	3rd Reading Free Conference Committee Report Adopted	47	3
	House		
4/10	Free Conference Committee Appointed		
4/13	Free Conference Committee Report Received		
4/15	2nd Reading Free Conference Committee Report Adopted	93	6
4/16	3rd Reading Free Conference Committee Report Adopted	81	16
4/16	Sent to Enrolling		
4/19	Returned from Enrolling		
4/20	Signed by President		
4/21	Signed by Speaker		
4/22	Transmitted to Governor		
4/27	Signed by Governor		
4/29	Chapter Number Assigned Chapter Number 502 Effective Date: 10/01/1999 - All Sections		

SB 459 Introduced by F. Thomas, et al. *LC0715 Drafter: Bohyer*

Create the Community Infrastructure Grants Program;...

2/11	Introduced and 1st Reading		
2/11	Referred to Business and Industry		
2/11	Fiscal Note Requested		
2/15	Fiscal Note Received		
2/15	Fiscal Note Printed		
2/16	Hearing		
2/18	Committee Executive Action--Bill Passed as Amended	7	0
2/19	Committee Report--Bill Passed as Amended		
2/19	Rereferred to Finance and Claims		
3/04	Hearing		
3/05	Tabled in Committee		
3/26	Missed Deadline for Appropriation Bill Transmittal		

SB 460 Introduced by Ellis, et al. *LC1249 Drafter: McClure*

Generally Revise the School Laws;...

2/11	Introduced and 1st Reading		

Senate BILL NO. 458

INTRODUCED BY Thane Brainard
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE RESTITUTION AND PENALTIES FOR ILLEGALLY KILLING OR POSSESSING GAME ANIMALS; AND AMENDING SECTIONS 87-1-102, 87-1-111, 87-1-112, 87-1-113, 87-1-114, 87-1-803, 87-1-804, AND 87-3-118, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Restitution for illegal killing or possession of certain wildlife.** In addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of the illegal killing, taking, or possession of a trophy animal listed in this section shall reimburse the state for each trophy animal according to the following schedule:

(1) bighorn sheep with at least one horn equal to or greater than three-fourth curl as defined by commission regulation, $30,000;

(2) elk with at least six points on one antler as defined by commission regulation, $8,000;

(3) moose having antlers with a total spread of at least 30 inches, as defined by commission regulation, or any mountain goat, $6,000;

(4) antlered deer with at least four points on one antler as defined by commission regulation, $8,000;

(5) antelope with at least one horn greater than 14 inches in length as defined by commission regulation, $2,000.

Section 2. Section 87-1-102, MCA, is amended to read:

"**87-1-102. Penalties.** (1) A person who purposely, knowingly, or negligently violates a provision of this title, any other state law pertaining to fish and game, or the orders or rules of the commission or department is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined an amount not less than $50 or more than $1,000 or imprisoned in the county ~~jail~~ detention center for not more than 6 months, or both, unless a different punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture

of that person's license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court. If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department within 10 days.

(2) (a) Except as provided in subsection (2)(f), ~~A~~ a person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall be fined an amount not less than $500 or more than $2,000 or imprisoned in the county ~~jail~~ detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

(b) Except as provided in subsection (2)(f), ~~A~~ a person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or mountain lion or any part of these animals shall be fined an amount not less than $300 or more than $1,000 or imprisoned in the county ~~jail~~ detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

(c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an amount not less than $200 or more than $600 or imprisoned in the county ~~jail~~ detention center for not more than 60 days, or both.

(d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing, transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of any provision of this title shall be fined an amount not less than $100 or more than $1,000, imprisoned in the county ~~jail~~ detention center for not more than 6 months, or both. In addition, that

person, upon conviction or forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and any pelts possessed unlawfully must be confiscated. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

(e) A person convicted of hunting, fishing, or trapping while that person's license is forfeited or a privilege is denied shall be imprisoned in the county ~~jail~~ detention center for not less than 5 days or more than 6 months. In addition, that person may be fined an amount not less than $500 or more than $2,000.

(f) A person convicted of purposely, knowingly, or negligently taking, killing, possessing, or transporting a trophy animal as described in [section 1] or any part of those animals shall be fined an amount not less than $500 or more than $3,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 5 years from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.

(3) If a person is convicted of illegally taking an animal described in 87-1-111 or [section 1] through the use of spotlights, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense, a department-sponsored hunter education course.

~~(3)~~(4) A person convicted or who has forfeited bond or bail under this section and whose license privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when license privileges have been forfeited shall be fined an amount not less than $500 or more than $2,000, imprisoned in the county jail for not more than 60 days, or both.

~~(4)~~(5) A person convicted or who has forfeited bond or bail under this section and who has been ordered to pay restitution under the provisions of 87-1-111 or [section 1] may not apply for any special

license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special license or permit shall be fined an amount not less than $500 or more than $2,000, imprisoned in the county ~~jail~~ detention center for not more than 60 days, or both.

~~(5)~~(6) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

~~(6)~~(7) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, the administrative authority or the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days."

Section 3. Section 87-1-111, MCA, is amended to read:

"**87-1-111. (Temporary) Restitution for illegal killing or possession of certain wildlife.** (1) Except as provided in [section 1] and ~~In~~ in addition to other penalties provided by law, a person convicted or forfeiting bond or bail upon a charge of the illegal taking, killing, or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for each bird, mammal, or fish according to the following schedule:

(a) bighorn sheep, grizzly bear, and endangered species, $2,000;

(b) elk, ~~mountain goat,~~ caribou, bald eagle, black bear, and moose, $1,000;

(c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission regulation, $500;

(d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor not included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish, $300;

(e) fur-bearing animals, as defined in 87-2-101 and not listed in subsection (1)(c) or (1)(d), $100;

(f) game bird (except swan), $25;

(g) game fish, $10.

(2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of restitution under this section. (Terminates June 30, 2003--sec. 2, Ch. 196, L. 1993.)

87-1-111. (Effective July 1, 2003) Restitution for illegal killing or possession of certain wildlife. (1) Except as provided in [section 1] and ~~In~~ in addition to other penalties provided by law, a person convicted or forfeiting bond or bail upon a charge of the illegal killing, taking, or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for each such bird, mammal, or fish according to the following schedule:

(a) bighorn sheep, grizzly bear, and endangered species, $2,000;

(b) elk, ~~mountain goat,~~ caribou, bald eagle, black bear, and moose, $1,000;

(c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission regulation, $500;

(d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor not included in subsection (1)(c), swan, bobcat, river-dwelling grayling, and white sturgeon, $300;

(e) paddlefish and fur-bearing animals, as defined in 87-2-101 and not listed in subsection (1)(c) or (1)(d), $100;

(f) game bird (except swan), $25;

(g) game fish, $10.

(2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of restitution under this section."

Section 4. Section 87-1-112, MCA, is amended to read:

"**87-1-112. Finding required.** Before restitution may be ordered pursuant to 87-1-111 or [section

1]], the finder of fact at trial or the court upon entry of a guilty plea ~~must~~ shall find that ~~such~~ the illegal killing or possession was done knowingly or purposely as defined in 45-2-101. This finding is not required for state reimbursement under 87-1-111 when bond or bail is forfeited."

Section 5. Section 87-1-113, MCA, is amended to read:

"**87-1-113. Payment -- penalty for nonpayment.** (1) In each case of conviction, the court before which the conviction is obtained shall order payment of the sum stated in 87-1-111 or [section 1].

(2) Failure to make payment in the time and manner prescribed by the court constitutes civil contempt of court and is punishable as provided in Title 3, chapter 1, part 5."

Section 6. Section 87-1-114, MCA, is amended to read:

"**87-1-114. Disposition of proceeds.** All money collected by a court pursuant to 87-1-111 through 87-1-113 and [section 1] must be remitted to the state treasurer for deposit in the state ~~general fund~~ special revenue fund to the credit of the department for hunter education purposes or for enforcement."

Section 7. Section 87-1-803, MCA, is amended to read:

"**87-1-803. Reciprocal recognition of license suspensions -- suspension of privileges for conviction in participating state.** (1) When the department receives notice of the suspension of a person's hunting, trapping, or fishing privileges by a participating state, the department shall determine whether the violation leading to the suspension could have led to the forfeiture of privileges under Montana law. If the department determines that the person's privileges could have been forfeited, the department shall suspend the person's privileges to hunt, trap, or fish in Montana for the same period as imposed by the participating state or for the minimum period that would have been imposed under Montana law, whichever period is longer.

(2) When the department receives notice of a conviction of a Montana resident from the licensing authority of the issuing state, the department shall treat the conviction as if it had occurred in Montana and shall determine whether the conviction could have led to the forfeiture of the resident's hunting, trapping, or fishing privileges under Montana law. If the department determines that the resident's privileges could have been forfeited, the department shall suspend the resident's privileges to hunt, trap, or fish in Montana for the minimum period that would have been imposed under Montana law.

(3) Notice of the suspension must be sent to the person, who shall surrender any current Montana hunting, trapping, and fishing licenses to the department within 10 days.

(4) A person whose privileges have been suspended and who hunts, traps, or fishes in Montana, who applies for or purchases any licenses or permits to hunt, trap, or fish in Montana, or who refuses to surrender any current hunting, trapping, and fishing licenses as required~~,~~ is guilty of a misdemeanor and is subject to the penalties prescribed in 87-1-102~~(3)~~(4)."

Section 8. Section 87-1-804, MCA, is amended to read:

"**87-1-804. Suspension of privileges for failure to comply with citation issued in participating state.** (1) The department shall suspend the hunting, trapping, or fishing privileges of any resident of Montana upon notification from the licensing authority of an issuing state that the resident has failed to comply with the terms of a citation issued for a wildlife violation. The suspension remains in effect until the department receives satisfactory evidence of compliance from the issuing state.

(2) Notice of the suspension must be sent to the resident, who shall surrender all current Montana hunting, trapping, and fishing licenses to the department within 10 days.

(3) A person who hunts, traps, or fishes, who applies for or purchases licenses or permits, or who refuses to surrender any current hunting, trapping, or fishing license in violation of this section is guilty of a misdemeanor and is subject to the penalties prescribed in 87-1-102~~(3)~~(4)."

Section 9. Section 87-3-118, MCA, is amended to read:

"**87-3-118. Felony sale or possession of wildlife -- penalty.** (1) A person commits the offense of sale of unlawfully taken wildlife if the person purposely or knowingly:

(a) sells, barters, purchases, or exchanges unlawfully taken wildlife for anything of value; or

(b) offers to sell, barter, purchase, or exchange unlawfully taken wildlife for anything of value.

(2) A person commits the offense of possession of unlawfully taken wildlife having a value of more than $1,000 if the person purposely or knowingly has actual or constructive possession of or transports or causes to be transported unlawfully taken wildlife having a value of more than $1,000. The value of the unlawfully taken wildlife must be determined from the schedule of restitution values set out in 87-1-111 and [section 1].

(3) (a) A person commits the offense of unlawful sale or possession of wildlife if the person

purposely or knowingly:

(i) sells, barters, purchases, or exchanges wildlife for anything of value;

(ii) attempts to sell, barter, purchase, or exchange wildlife for anything of value;

(iii) transports, causes to be transported, or is in the process of transporting out of state wildlife for purposes of sale, barter, purchase, or exchange for anything of value.

(b) For the purposes of this subsection (3), "wildlife" includes the edible meat, internal organs, tissue, fluids, or sex organs of wildlife having a value of more than $1,000 or edible meat of wildlife in excess of 150 pounds, except meat allowed to be sold under the provisions of 71-3-1505.

(c) For purposes of determining the total pounds of edible meat of wildlife, any nonwildlife meat or ingredients mixed with the meat of wildlife must be included in the total.

(4) For purposes of this section, the value of all wildlife actually or constructively possessed, transported, sold, bartered, bought, or exchanged for anything of value within a 45-day period must be added together to determine whether the value of the wildlife is greater than $1,000.

(5) A person who violates this section is guilty of a felony and upon conviction shall be fined not more than $50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, a person convicted under this section or who pleads guilty to a violation of this section shall lose all hunting, fishing, and trapping permits and license privileges for a minimum of 3 years or up to a maximum of a lifetime revocation from the date of conviction."

NEW SECTION. **Section 10. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 87, chapter 1, part 1, and the provisions of Title 87, chapter 1, part 1, apply to [section 1].

- END -

FISCAL NOTE

Bill #: SB0458

Title: Revise restitution amounts for certain illegally taken species

Primary Sponsor: Fred Thomas

Status: As introduced

Fred Thomas 2/15/99
Sponsor: Date

Dave Lewis 2-15-99
Dave Lewis, Budget Director Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:	$0	$0
Revenue:		
General Fund	($51,720)	($51,720)
State Special Revenue	$117,695	$117,695
Net Impact on General Fund Balance:	**($51,720)**	**($51,720)**

Yes	No		Yes	No	
	X	Significant Local Gov. Impact		X	Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. Based on Enforcement Division records of court-ordered restitution for the past three years, 89 hunters were required to pay $51,720 in restitution each year.
2. Approximately 10% of the animals would be considered a trophy animal and would require higher restitution amounts, so the annual restitution collected would increase to $117,695.
3. The DFWP is unable to determine any additional revenue to the general fund and the counties due to the increase in penalties for trophy animals.

SB 458

FISCAL IMPACT:

	FY2000 Difference	FY2001 Difference
Revenues:		
General Fund (01)	($51,720)	($51,720)
State Special Revenue (02)	$117,695	$117,695
Net Impact to Fund Balance (Revenue minus Expenditure):		
General Fund (01)	($51,720)	($51,720)
State Special Revenue (02)	$117,695	$117,695

{Tape : 1; Side : B; Approx. Time Counter : 0}

SENATOR BISHOP asked if the Big Hole and Beaverhead are the only rivers they are having a problem within his district. **SENATOR SWYSGOOD** replied yes. **SENATOR BISHOP** asked about the Ruby River and the Madison River. **SENATOR SWYSGOOD** said he didn't want to open a can of worms on the Madison and he is not as familiar with that river. He said it is a whole different situation.

Closing by Sponsor:

SENATOR CHARLES SWYSGOOD, SD 17, Dillon said he has some real concerns as it relates to the resource and the use of those resources. He stated maybe everything we do isn't the panacea for trying to correct everything. He said they see some real potential for devastation of the resource. He thinks that is why the bill contains the section which allows them to address other uses of the river and allows them to establish a management plan for all recreational uses of the river. He said when it comes to limiting use on the river by the outfitters, it is a difficult situation to address, but if they do something similar to what is being suggested, then it couldn't get any worse than it is right now. He stated to remember a fishing outfitter files an operational plan and the outfitter lists the rivers he is going to use. Any outfitter that has an operational plan on file, as of January 1, 1999 and lists the Beaverhead and the Big Hole, would be part of the total picture. He has concerns with some of the amendments as to where they are going and the committee will discuss them during executive action. He said their intent is that the situation has to be rectified or at least slowed down, which the bill is attempting to do. He hopes when the legislature convenes next time there will be a proposal that will be more broad and encompassing to further protect this valuable resource. He had another concern with the amendment covering the weekends.

{Tape : 1; Side : B; Approx. Time Counter : 4.6}

HEARING ON SB 458

Sponsor: **SENATOR FRED THOMAS, SD 31, Stevensville**

Proponents: **Greg Munther, MT Bowhunters Association**
Stan Rauch, MT Bowhunters Association
Pat Graham, Fish Wildlife and Parks

Opponents: None.

Opening Statement by Sponsor:

SENATOR FRED THOMAS, SD 31, Stevensville said the illegal taking of trophy big game is a serious problem in Montana. He states SB 458 raises the bar and substantially penalizes a person that would be convicted of purposely knowing or negligently taking, killing or possessing or transporting a trophy animal. He said one important detail is the common hunter who makes a mistake. This bill has some serious fines for having these animals in their possession or taking them. He said that is why they built in the language in page 3, line 9, subsection F which states what he read before. You must be convicted of purposely knowing or negligent. This is a high bar versus just having or being there. He stated if the language is not satisfactory, then he is for improving it. He thinks they have accomplished that.

He discussed section 1 which set up the significant penalties. He said they want to raise the threshold in Montana to make it a serious penalty to poach and possess game that is illegally taken. He stated this bill will make Montana a bad place to poach big game and the result of not passing the bill is to say "why not poach here in Montana where the game is good and the penalties are light."

Proponents' Testimony:

Greg Munther, MT Bowhunters Association, stated the association believes most Montanans intent to be law abiding and are law abiding when it comes to hunting and fishing. He said there are a number of people in this state who use the wide open spaces and the quality of our animals for personal gain either monitarially or for some sort of self gratification in illegally harvesting the biggest and the best of Montana's wildlife. The association believes Montana will become attractive as surrounding states raise their penalties for similar violations as has happened in Colorado and Utah. The association would like to urge support of the bill because they believe it would better balance the risks. The reward of being caught and prosecuted in a substantial way

serves as an deterrent for those people who might consider such actions.

He entered and discussed the informational packet, **EXHIBIT(9)**.

He stated there are three elements the association feel are important. They believe the restitution amounts should reflect market values. The second element is a license revocation. He said this bill proposes that fishing and hunting licenses be revoked for violators who take these trophy animals intentionally for five years as would poaching any big game animal using a spotlight, infrared scope, or night scope. The association feels these are deliberate acts; there is no mistaking that these animals were killed illegally and maliciously. The third element is that the money collected from the restitution penalties would be directed back into Montana hunter education programs. He said the hunter education programs are meant to promote and teach ethical, legal, and responsible hunting behavior which they believe is positive for the State of Montana, especially the sportsmen who are now being cheated.

{Tape : 1; Side : B; Approx. Time Counter : 15.1}

Stan Rauch, MT Bowhunters Association, discussed the antlers which were brought for demonstration of poached big game in Montana. He said a lot of poaching comes from people out of state. They go to the states where penalties are the lightest and take the trophy big game animals and leave. He said the only way to get people's attention is to promote the much higher fines.

Pat Graham, Fish Wildlife and Parks, provided written testimony, **EXHIBIT(10)**.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SENATOR BECK asked about goats being taken for trophy. He was shown by a committee member where in the bill it states goats are included.

Closing by Sponsor:

SENATOR FRED THOMAS, SD 31, Stevensville, stated there is no way we want the mistaken hunter to get hammered. He wants the committee to be comfortable with the bill that passes out of the committee. He said it isn't their intent to get someone who made a mistake, they want to hammer the poachers who are making a business of this in Montana.

{Tape : 1; Side : B; Approx. Time Counter : 23.1}

HEARING ON SB 418

Sponsor: SENATOR CHARLES SWYSGOOD, SD 17, Dillon

Proponents: Page Dringman, MT Landowners Alliance
Dave Hodges, MT Landowners Alliance
Paul Vancleve, MT Ranch Vacation Association
Harold Blattie, MT Association of Counties
Diane Colpo, MT Landowners Alliance
Sandra Peck, Self
John McDonald, self
Donna Sevalstad, Commissioner Beaverhead County
Candace Payne, Wife, Women Involved in Farm Economics
Debby Barrett, self
John Bloomquist, MT Stockgrowers
Lance Lovell, Big Timber
Tony Carroccia, Melville
Dawn Curry, Citizen

Opponents: REPRESENTATIVE STEVE GALLUS, HD 35, Butte
Stan Meyer, FWP Commission
Jerry Wells, MT Council of Trout Unlimited
Jim McDermand, Medicine River Canoe Club
Stan Bradshaw, self
Jerry Kustich, Lewis & Clark
Bill Holdorf, Skyline Sportsmens' Association
Dianne McDermand, Medicine River Canoe Club
Paul Roos, outfitter
Stan Frasier, Prickley Pear Sportsmen's Association
Bob Wilkie, represented the people of Wisdom
Chris Strainer, self
Tony Schoonen, Public Lands Access Association
Allen Schallenberger, Sheridan
Vince Fischer, SkyLine Sports
Pat Graham, Fish Wildlife and Parks

SENATE FISH AND GAME
EXHIBIT NO. 9
DATE 2-16-99
BILL NO. SB 228

"Operation Breaks" Results in 87 Game Violations and 35 Trophy Heads Confiscated

Four years after investigations began, a huge poaching operation came to an end in 1998 when two Montana brothers were found guilty of numerous trophy poaching charges as well as illegal outfitting. Unfortunately honest Montanans were cheated from a chance to see or harvest a large number of trophy-class animals before the ring was broken. Thirty five trophy heads were recovered, including a bull elk that had a Boone and Crockett score of 394. Fines totaled $30,000 and 5 years probation. Out-of-state hunters from Indiana and Idaho were also involved. The warden captain said there were a lot more illegal activities going on in "our neck of the woods" than people realize. (Glasgow Courier, Nov 12, 1998) (Cover Photo)

Two Montanans Charged with 19 counts of Illegal Big Game Activities

In 1988 two western Montana residents were charged with multiple counts of illegal killing and possessing big game animals. These people also participated in illegal activities in Idaho. One subject was known to participate in all night spotlighting killing over several hundred miles of travel in a single night. The charges included:

Subject 1

2 counts of illegally baiting bears
selling unlawfully killed bighorn sheep horns
hunting with the aid of an artificial light
possessing and transporting illegally taken elk
2 counts of illegally possessing and transporting black bear
3 counts of illegally outfitting
hunting game animals during closed season
possessing and transporting illegally taken deer
Unlawful sale of elk meat
Selling parts of unlawfully taken mountain lion
Selling unlawfully killed elk

Subject 2

Selling the horns of an illegally killed bighorn sheep

Taking deer with the aid of an artificial light

Ten People Involved In Major Montana Poaching Operation

SUBJECT 1 GUILTY OF:

-2 counts criminal mischief
-2 counts Outfitting without a license
-2 counts Unlawful possession or sale of game(3 bull elk, 6 deer, 3 antelope)
-Hunting with the aid of artificial light

Subject 1 guided for fees on other people's land for bear, elk and deer. Killed 3 elk and at least two deer at night with artificial light. Sold deer and elk and attempted to sell lion. Stored 4 illegally killed deer.

RESTITUTION FOR SUBJECT 1: $4200

SUBJECT 2 GUILTY OF:

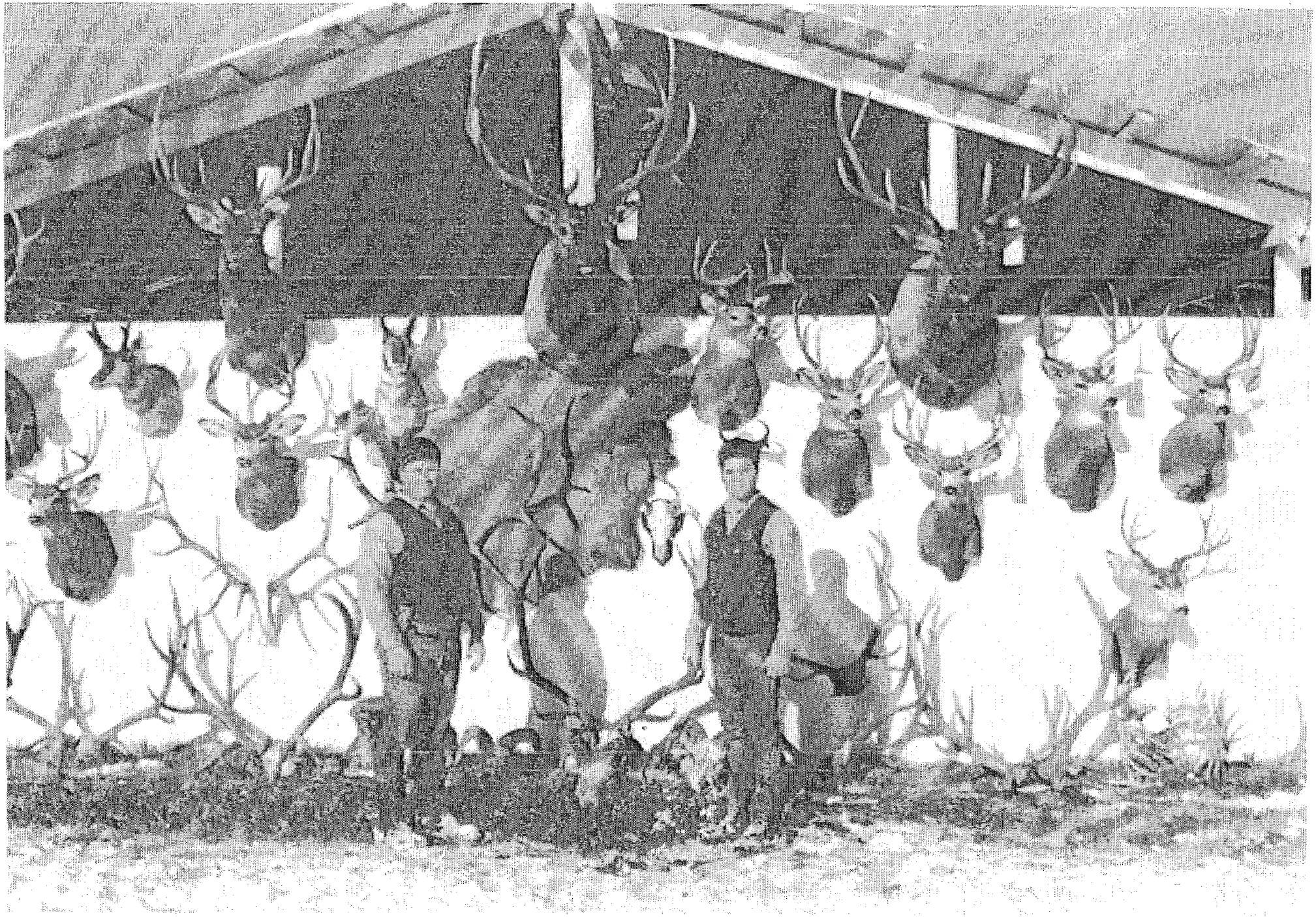
-2 counts of criminal mischief
-Guiding without a license
-Unlawful possession of sale of game

Subject 2 guided without license, unlawfully possessed deer, mountain lion , elk, and bear. Attempted to bait and trap bear. Sold deer and elk. Killed deer with artificial light. Baited and tried to trap bear

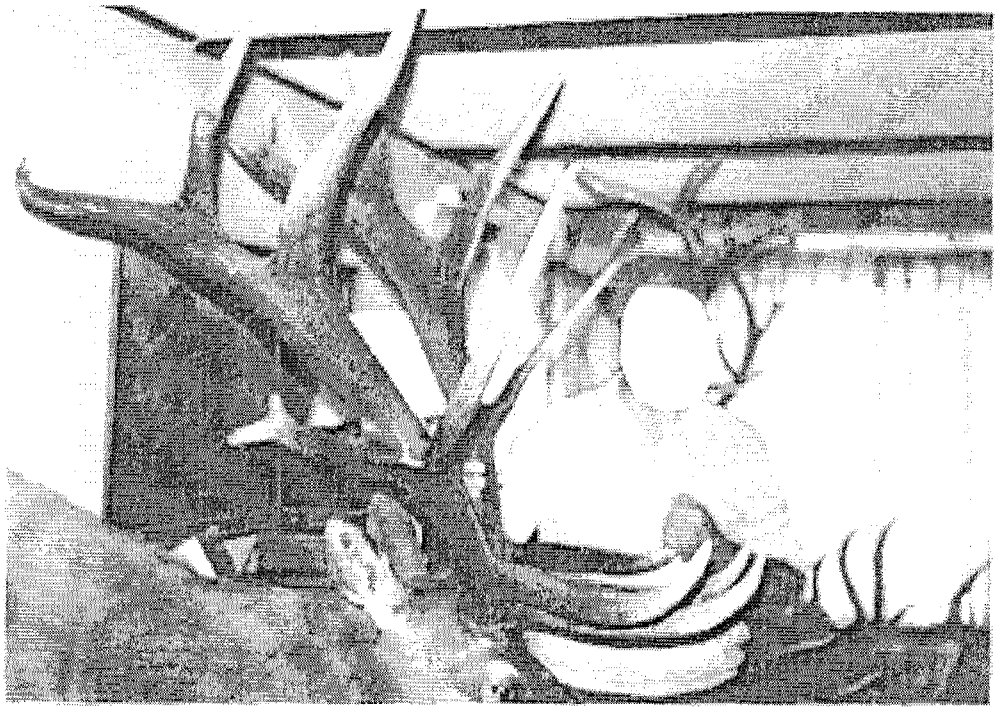
SUBJECT 2 RESTITUTION AMOUNT: $1400

There were a total of 10 subjects charged in this case, of which 2 were from out of state.

Subject 1 was assessed a restitution amount for the trophy bull elk (see photo)at $500 and the trophy deer at $300 each.



Trophy Elk Illegally Killed with Restitution Value assessed by Judge at $400. Maximum present restitution value is $1000

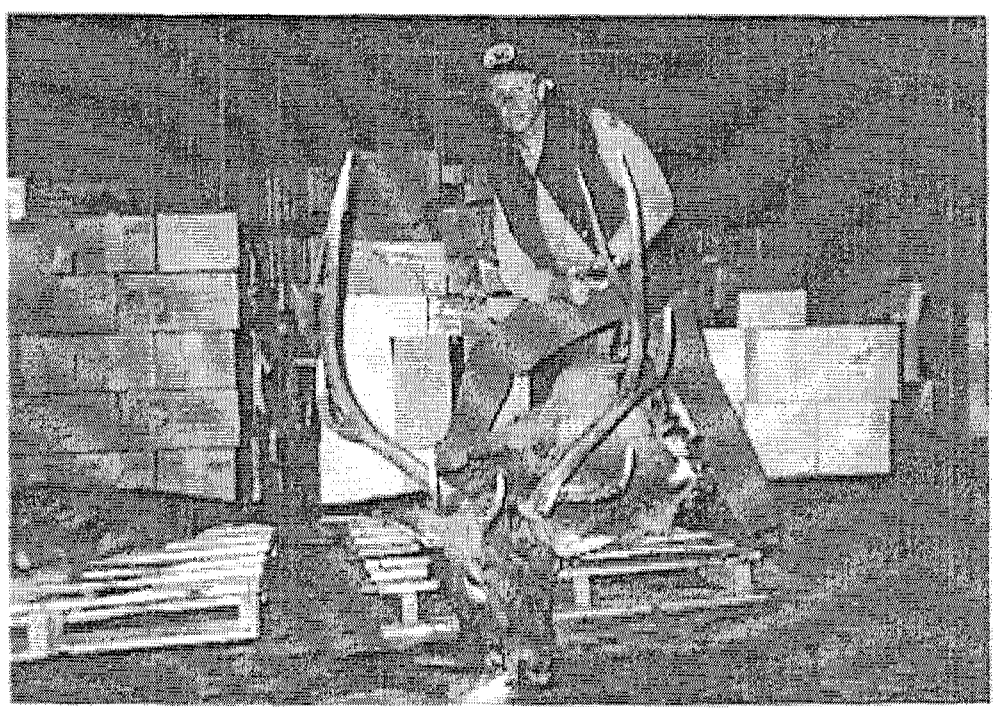


Trophy Elk Illegally Killed with Maximum Restitution Value of $1000

Several Large Whitetail Buck Deer Illegally killed with Maximum Restitution Value presently at $500 each.

Elkhorn Poaching 1998

Four mature bull elk illegally killed in 1998. Three of these elk were killed by two poachers who did not have a special permit for hunting district 380 (Elkhorns) and only one poacher had an elk tag. The largest of these elk scored 355 Boone and Crockett, and the others were 6x6 and 6x7. The restitution paid by the violators was the current legal maximum of $1000 each, but these same sized elk on a western Montana game farm are priced at $7500 to $9000 each.



This bull elk was shot and left by a poacher who did not have a special permit to hunt in the Elkhorn unit 380. Restitution paid was the current legal maximum of $1000 but the

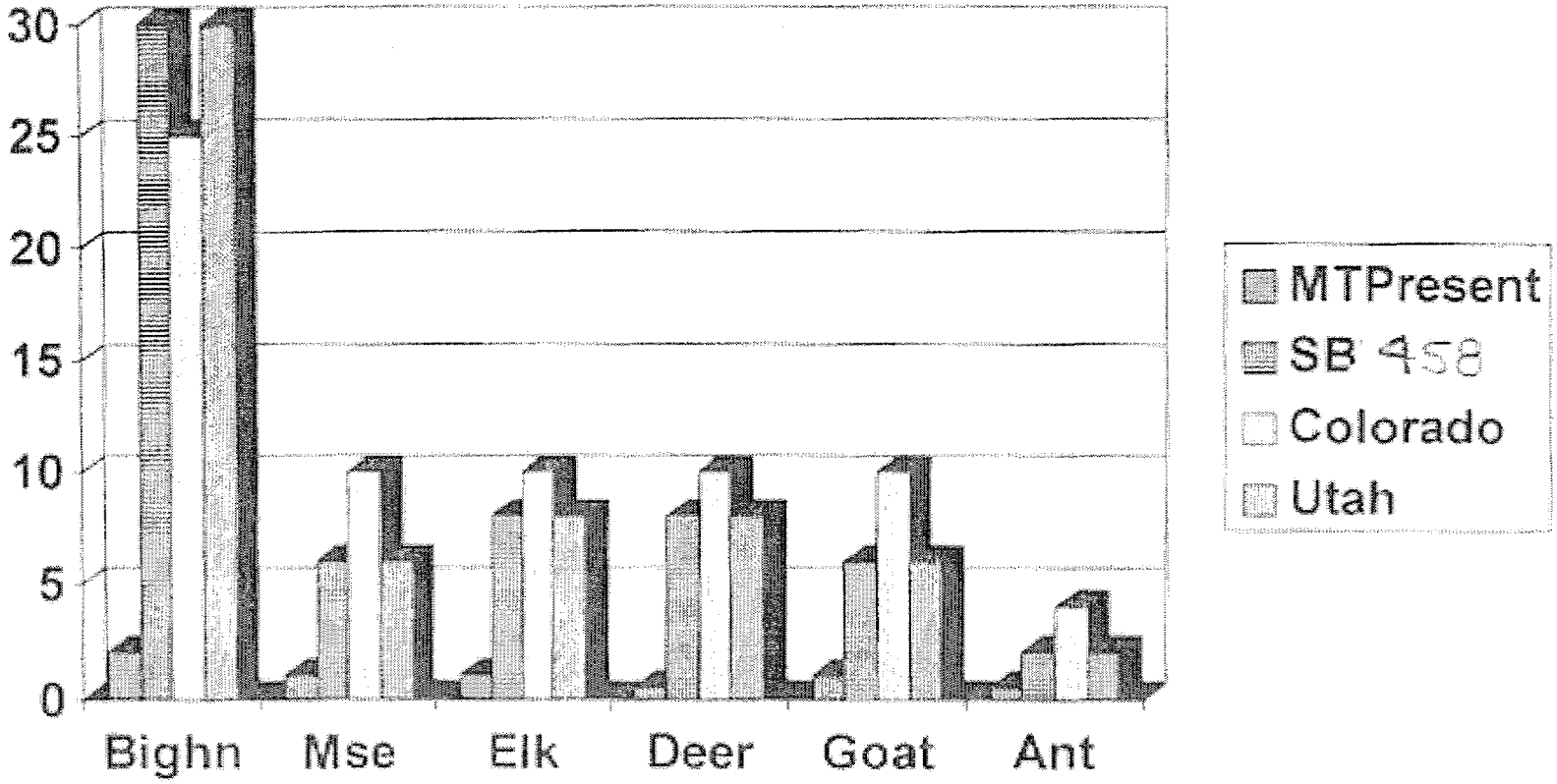
The 1996 or 1997 price schedule listed below is for elk at a private game farm in western Montana.

Special Trophy Hunt

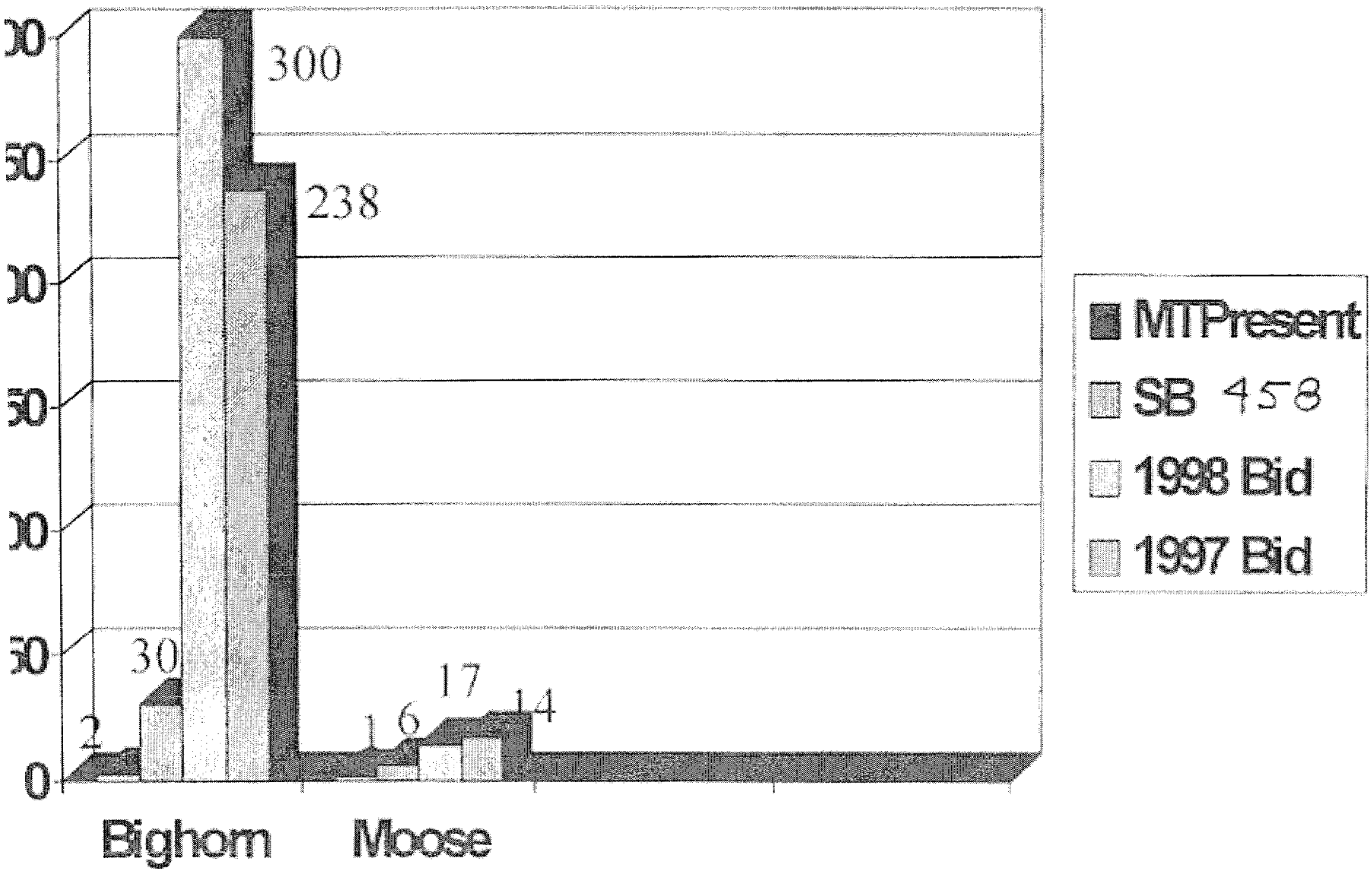
Guaranteed 6 point or better trophy elk
Hunt on a private ranch
in Western Montana,
no permits, or licenses required
One on one guide,
with meals and lodging included
August through January
Limited Numbers

Green Score B & C	
260 - 300 B & C	$5,200.00
301 - 325 B & C	$6,900.00
326 - 350 B & C	$7,900.00
351 - 360 B & C	$9,000.00
361 - 370 B & C	$10,500.00
371 - 380 B & C	$12,500.00
381 - 390 B & C	$15,000.00
391 - 400 B & C	$18,000.00

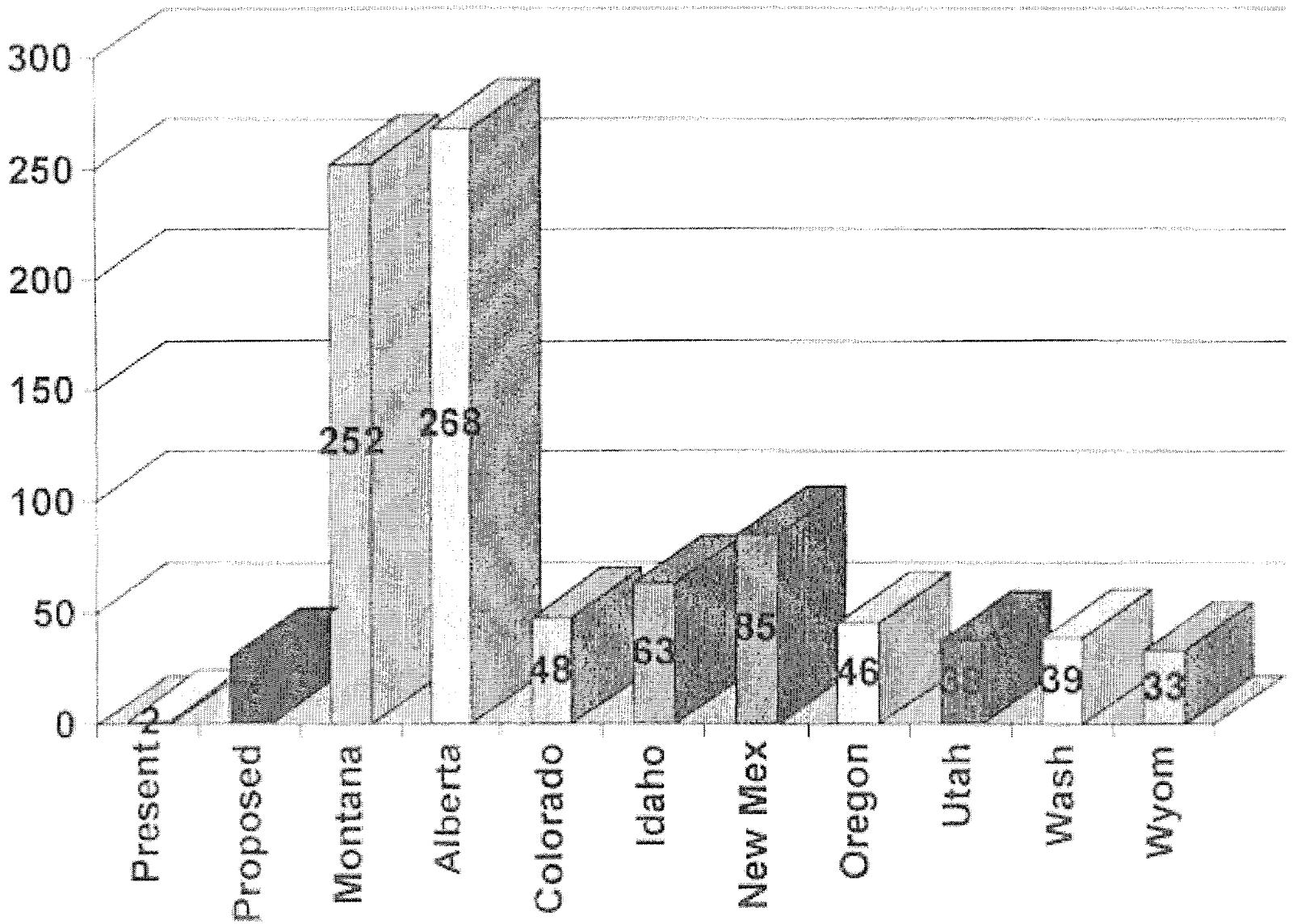
Restitution Comparison for Trophy-sized Wildlife(M$)



Restitution vs Auction Bids(M$)

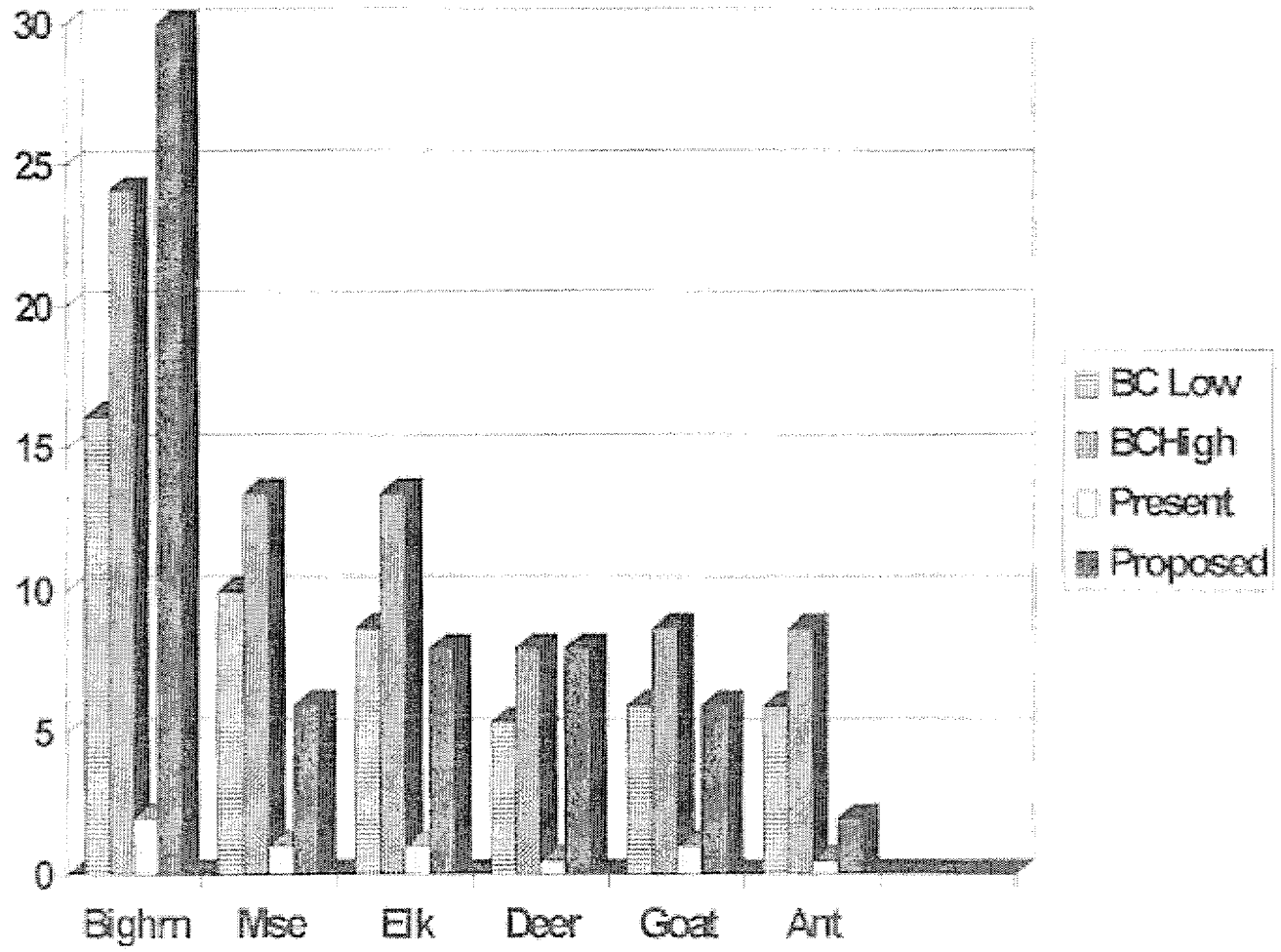


Comparison of Average Bighorn Sheep Bids for 1995-1997 Relative to Present and Proposed Restitution(Source: Foundation for North American Wild Sheep)



Mounted Game Head Values (M$)compared to restitution amounts

ource: Boone nd Crockett 988 Price uide of North merican ame lounts(adj .34 for nflation to 998 values)



"Suspension or Revocation of hunting privileges should also be applied more readily as a penalty for more serious offenses. Professor Jackson and Agent Hall both reiterate that hunters fear no other penalty as much as license revocation"

Source: 1993. State Wildlife Laws Handbook, Center for Wildlife Law, Albuquerque, NM

SENATE FISH AND GAME
EXHIBIT NO. 10
DATE 2-16-99
BILL NO. SB458

Senate Bill 458
February 16, 1999
Presented by Patrick Graham
Montana Fish, Wildlife & Parks
for the
Senate Fish and Game Committee

My name is Pat Graham, Director of Montana Fish, Wildlife & Parks (FWP). I support Senate Bill 458 which would increase the fines and the amount of restitution paid to the State of Montana on certain "trophy" animals. These animals are uncommon and the most sought after individuals of their species by many hunters.

The purpose of this legislation is not to swell the coffers of the State of Montana, rather to protect wildlife from poachers by serving as a deterrent to those who would unlawfully kill, take, or possess one of these coveted animals. The commercial value of a large bull elk far exceeds the restitution of $1,000 now required by law. Under HB458, the judge will have to find that the violator acted knowingly or purposely in the illegal killing before assessing restitution. Thus if a hunter accidentally shoots an animal, the hunter will not be required to pay restitution. An example would be a herd situation where a hunter shoots one game animal and the bullet passes through and kills a second animal.

Mature, male animals of this class are in demand both from a tourism perspective and by the hunter who would pay a great deal of money to have the opportunity to harvest an exceptional example of a species.

The bill allows the FWP Commission to define the size of antlers or horns in its regulations that triggers the higher restitution amounts. The public will have an opportunity for comment in the regulation setting process.

In states where a high restitution value has been put on large game animals, we are told that the incidence of commercial poaching has decreased. Under current law, a person may be less willing to resist shooting such an animal if the person's chances of getting caught are slim and, if caught, the penalties are not severe. The risks for commercial poachers go up considerably under this bill and should be an effective deterrent.

MONTANA SENATE
1999 LEGISLATURE
FISH AND GAME COMMITTEE

ROLL CALL DATE 2-16-99

NAME	PRESENT	ABSENT	EXCUSED
SEN. TOM BECK	X		
SEN. AL BISHOP	X		
SEN. WM. CRISMORE	X		
SEN. STEVE DOHERTY	X		
SEN. PETE EKEGREN	X		
SEN. JON ELLINGSON	X		
SEN. EVE FRANKLIN	X		
SEN. BEA MC CARTHY			X
SEN. CHUCK SWYSGOOD	X		
SEN. JACK WELLS	X		
SEN. MIKE TAYLOR, VICE CHAIRMAN	X		
SEN. KEN MESAROS, CHAIRMAN	X		

DATE 2-16-99

SENATE COMMITTEE ON Fish & Game

BILLS BEING HEARD TODAY: SB 445, SB 458, SB 418

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Larry McGrath	494-7031	George Grant Trad. Unlimited			
Tony Canossa	257-4591	Self	418	X	
Jerry Wells	443-5066	Trad. Unlimited	418		X
Paul Reffern	494-4218	Self	418 445	x	x
J. L. Chart	442-0827	Trad. Unltd	445 418		X
Glen Paul	449-2539	self	445 418		
Buck Holdorf	494-6023	Skyline	418		✓
Buck Holdorf	"	"	445	✓	
Jeff Walker	684-5088	Self	418		✓
Jerry Kustich	684-5088	Lewis & Clark	418		✓
John Bloomquist	443-2211	Mt. Stockgrowers	418	✓	
Vince Fischer	494-2761	Skyline Sptsmn.	418		✓
Darrell Baker	797340z	Anaconda Sportsman	418		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-16-99

SENATE COMMITTEE ON Fish + Game

BILLS BEING HEARD TODAY: SB 445, SB 458, SB 418

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Jack VanCleve	537-4404	Crazy Mt Landowners Assoc	5418	✓	
"	"	Mt. Ranch Vacation Assoc	5418	✓	
Bill Saunders	682 7128	SAUNDERS FLOATING	445 418	✓	✓
Allen Schallenberger	842-5134	Experience Montana	445 418	✓	✓
Dianne McDermand	761-0303	Medicine River Canoe Club	418		✓
Lois Steinac	468-2406	" "	418		✓
Tim McDermand	761-0503	Organization formed for Rivers & Streams OURS	418		✓
MIKE MURPHY		MT. WATER RESOURCES ASSN	418	✓	
JOHN KOBER	457-9341	MWF / OUTFITTER	418 445		✓
Robbie GARRETT	683-2329	Business Mgr	445 418	✓	
RANDY SMITH	935-3451	Self	418 ~~445~~	X	
Jim Hagenbuch	683-5830	Landowner	445	X	
Michael Carrocia	537-4477	self	418	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-11-99

SENATE COMMITTEE ON Fish + Game

BILLS BEING HEARD TODAY: SB 445, SB 458, SB 418

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Stuart Decker	267-3409	Big Hole River Foundation	~~445~~ ~~418~~		
Debby Barrett	681-3177	myself	418	X	
Bob Wilks	689-3247	~~My~~ People of Wisdom	418		X
STAN RAUCH	682-6639	MT Bowhunters Assoc	SB458	X	
Steve Luebeck	454-6216	George Grant Tie	SB-418 SB 445	X	X
SCOTT REYNOLDS	797-3361	MYSELF	SB 418 SB 445	X	X
Gaith Hawkins	683-5248	Bd. Co. Commission	SB 445	X	
Jerry Meine	683-5402	myself	445		
MATT GREENOUGH	689-5689	My Self	SB 418 SB 445		
Katrina Schneerman	443-3949	MT Audubon	SB 458	X	
SAM BABICH	494-7579	Self	418		X
~~SAM BABICH~~	~~494-7579~~	Self			
DAVE HODGES	932-6181	MT Landowners Alliance	418	X	
Diane Colpo	932-4748	Mt. Landowners Alliance	418	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-16-99

SENATE COMMITTEE ON Fish & Game

BILLS BEING HEARD TODAY: SB445, SB458, SB418

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Page Dingman	932-5440	MLA	418	X	
Colleen Coyle	443-2211	mcA	418	X	
Bob Decker	442-2566	self	418		X
~~Bill Saunders~~	~~[illegible]~~	~~Self~~			
Bill Tash		HD34	~~SB454~~		
DAVID DITTLOFF	449-7610	MT WILDLIFE FED	SB 445		X
Louise Bruce	683-6437	Bvhd Comm. Forum	SB 445		
Steve Gallus	444-4800	House Dist. 35	SB 418		X
Parke Scott	683-4877	s.e/c	445	X	
Candace Payne	442-7450	WIFE	418	X	
Chris Maechling	563-6145	Anaconda Sportsmen	418		X
Stacy Frasier	443-3424	MWF	418		X
ROBIN CUNNINGHAM	763-5436	FISHING OUTFITTERS ASSN OF MONTANA	418		X
ROBIN CUNNINGHAM	"	F.O.A.M.	445	X	
MIKE LESNIK	443-2548	SELF	418	W. AMENDS	X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-16-99

SENATE COMMITTEE ON Fish & Game

BILLS BEING HEARD TODAY: SB 445, SB 458, SB 418

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
GREG NUNTHER	406-542-1320	Montana Bowhunters Assn	458	X	
Bill Allen	406-683-4716	Beaverhead Outdoors Assoc.	445	X	
Monty Hankinson	406-683-4579	Ourfitter	445	X	
Robert Bartunek	406 683 556	STORE OWNER	445	X	
Mary Melander	406-727-6760		418		X
Jim McDermand	761-0303	Madison River Canoe Club.	445		X
Randy Smith	835-3451	Bitterroot Water Shed Committee	445	X	
Jim Hagenbuch	683-5050	Big Hole Watershed Comm.	418	X	
JACK MORGAN	842-5304	Self	418		X
Sandra M. Peck	328-4130	Self & family	418 445	X X	
Todd Collins	782-2464	Self	418		X
Donna J. SERALSKI		SELF	418	X	
John McDonald	959-3584	Self	418	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-16-99

SENATE COMMITTEE ON Fish + Game

BILLS BEING HEARD TODAY: SB 445, SB 458, SB 418

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Paul Roos		Self	418 445	✓	✓ *
MARK VOREM	406 932-4606	Self	418		
Jim Volkar	449-1718	SELF	445 418	✓	✓
Chris Strainer	449-7292	Self	418		✓
TIM PLASKA	933-5987	SELF	445	✓	✓
Stan Bradshaw	443-4171	Self	418		✓
Kent Wilcox		Self	418		X
TIM PLASKA	933-5987	SELF	418		X
Tim Jamison	449-7604	Montana Wildlife Federation	418 445		X
Vince Fischer	494-2761	Skyline Sobo. Bottle	445	✓	
HAROLD BLATTIE	322-4546	Stillwater County MACo	418	✓	
Joe Murphy	443-7096	Self	418		X
Katrina Scheuerman	442-8152	Self	418		X
Jim Jensen	443-2520	Self	418		X
Stan Meyer	453-0144	FWP Commission	418		X
Dawn Curry	932-4826	Self	418	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN KEN MESAROS**, on February 18, 1999 at 3:15 P.M., in Room 402 Capitol.

ROLL CALL

Members Present:

Sen. Ken Mesaros, Chairman (R)
Sen. Mike Taylor, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Al Bishop (R)
Sen. William Crismore (R)
Sen. Steve Doherty (D)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Eve Franklin (D)
Sen. Bea McCarthy (D)
Sen. Chuck Swysgood (R)
Sen. Jack Wells (R)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Adrienne Pillatzke, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: None., 2/18/1999
Executive Action: SB 329; SB 334; SB 335; SB 336; SB 337; SB 338; SB 339; SB 340; SB 341; SB 445; SB 458; SB 418

EXECUTIVE ACTION ON SB 329

Motion: **SEN. ELLINGSON** moved that **AMENDMENT DO PASS.**

SENATOR SWYSGOOD stated he would like to add to the amendment that a change on line 21, page 2, October 1, 2000 to July 1, 2001. He said that would be the time that the group has to submit a plan to the FWP.

SENATOR MCCARTHY asked when salmon hatching is and if it cover that time. **SENATOR SWYSGOOD** replied in the end of June and it covers the salmon hatch.

{Tape : 1; Side : B; Approx. Time Counter : 38.3}

Vote: Motion **carried 11-1 with Bishop voting no.**

Motion/Vote: **SEN. SWYSGOOD** moved that **SB 445 DO PASS AS AMENDED. Motion passed 10-2 with Bishop and Doherty voting no.**

EXECUTIVE ACTION ON SB 458

Motion: **SEN. TAYLOR** moved that **SB 458 DO PASS.**

Discussion:

SENATOR BECK asked if there were any amendments for the bill. **Leanne Kurtz** said she did not receive any amendments.

{Tape : 2; Side : A; Approx. Time Counter : 0}

Pat Graham said the money that use to go to the Department of FWP now goes into the General Fund. **SENATOR TAYLOR** asked the money goes into the General Fund. **Mr. Graham** said the restitution money goes into the General Fund and the sponsor's intent is the restitution money would go into the Higher Education and Law Enforcement Programs.

SENATOR WELLS reminded the committee of his big sheep story where it didn't bother the hunter to kill an illegal sheep because the fine wasn't much more than the tag. He supports the bill.

SENATOR TAYLOR concurred with Senator Wells. He referred to the chart which shows the fines in other states. He said it is hard to go out and kill a sheep by accident.

SENATOR BECK asked if someone picks up a set of sheep antlers is it a $30,000 fine. **Pat Graham** replied it is a misdemeanor. **SENATOR BECK** said if they found them in the wilderness and were put on their property. **Mr. Graham** said it is natural shedding

and there is no fine. **SENATOR BECK** understood that you could not pick up sheep horns in the state.

SENATOR SWYSGOOD referred to the fiscal note. He said the money always went to the General Fund and now it is going to into the hunter education program where there already is money. He said the bill does have an impact of the general fund.

Motion: **SEN. SWYSGOOD** moved that **STRIKE LINE 14 IN IT'S ENTIRETY AND REINSERT "GENERAL FUND" IN LINE 13, PAGE 6. BE AMENDED.**

Discussion:

SENATOR DOHERTY opposed the amendment. He said they are talking about people profiting from Wildlife. He said if there were more enforcement and have more game wardens out there maybe there would be less poaching. He said it is a fish and game violation and the money should go back to the FWP.

SENATOR CRISMORE doesn't know how they can say it is going to be used for enforcement because they don't know when they are going to get it or how.

Vote: Motion **carried 8-4 with Bishop, Doherty, Ellingson and Franklin voting no.**

SENATOR BECK asked what is the penalty in illegally shooting a big horn sheep. **Pat Graham** referred to page 5.

SENATOR BECK stated he would like to see it put in over a couple of years. He would like to see it go to 15, 4, 3, 4, 1.

SENATOR EKEGREN said he thought grizzly bears were more than $2,000 in current law. **Mr. Graham** said under federal law it is a lot more which includes jail time.

Vote: Motion **carried 11-1 with Beck voting no.**

{Tape : 2; Side : A; Approx. Time Counter : 6.9}

EXECUTIVE ACTION ON SB 418

Motion: **SEN. SWYSGOOD** moved that **SB 418 DO PASS.**

Discussion:

MONTANA SENATE
1999 LEGISLATURE
FISH AND GAME COMMITTEE

ROLL CALL DATE 2-18-99

NAME	PRESENT	ABSENT	EXCUSED
SEN. TOM BECK	X		
SEN. AL BISHOP	X		
SEN. WM. CRISMORE	X		
SEN. STEVE DOHERTY	X		
SEN. PETE EKEGREN	X		
SEN. JON ELLINGSON	X		
SEN. EVE FRANKLIN	X		
SEN. BEA MC CARTHY	X		
SEN. CHUCK SWYSGOOD	X		
SEN. JACK WELLS	X		
SEN. MIKE TAYLOR, VICE CHAIRMAN	X		
SEN. KEN MESAROS, CHAIRMAN	X		

SENATE STANDING COMMITTEE REPORT

February 19, 1999

Mr. President:

We, your committee on **Fish and Game** report that **Senate Bill 458** (first reading copy -- white) **do pass as amended**.

Signed: _____
Senator Ken Mesaros, Chair

And, that such amendments read:

1. Page 6, line 14.
Strike: "special" through "enforcement"
Insert: "general fund"

- END -

Committee Vote:
Yes 11, No 1.

411935SC.sjo

MONTANA SENATE
1999 LEGISLATURE
FISH AND GAME COMMITTEE
ROLL CALL VOTE

DATE 2-18-99 BILL NO. SB458 NUMBER 3

MOTION: To Strike line 14 in its entirety and reinsert "general fund" in line 13, page 16.

NAME	AYE	NO
SEN. TOM BECK	X	
SEN. AL BISHOP		X
SEN. WM. CRISMORE	X	
SEN. STEVE DOHERTY		X
SEN. PETE EKEGREN	X	
SEN. JON ELLINGSON		X
SEN. EVE FRANKLIN		X
SEN. BEA MC CARTHY	X	
SEN. CHUCK SWYSGOOD	X	
SEN. JACK WELLS	X	
SEN. MIKE TAYLOR, VICE CHAIRMAN	X	
SEN. KEN MESAROS, CHAIRMAN	X	

HEARING ON SB 458

Opening Statement by Sponsor: Sen. Fred Thomas
{Tape : 1; Side : A; Approx. Tape Counter : 15 - 61}

EXHIBIT(1)

Proponents' Testimony:
Greg Munther, Montana Bow Hunters Association
{Tape : 1; Side : A; Approx. Tape Counter : 64 - 163}

Stan Rauch, Montana Bowhunters Association
{Tape : 1; Side : A; Approx. Tape Counter : 164 - 208}

Arnie Olson, Fish, Wildlife and Parks
{Tape : 1; Side : A; Approx. Tape Counter : 216 - 245}

EXHIBIT(2)

EXHIBIT(3)

Stan Rauch, Self
Robert Howard, Self
Emitt Northup, Self
Mark Baker, Self
Walter Francis, Self
John Foster, Self
Dino Fanelli, Self
Robin Trenbeath, Self
Randy Tocci, Self
Larry Rattray, Self
Rick Miller, Self

Opponents' Testimony: NONE

Informational Testimony: NONE

Questions from Committee Members and Responses:
{Tape : 1; Side : A; Approx. Tape Counter : 249 - 512; Comments : continued on tape 2 side B}

Closing Statement by Sponsor: Sen. Fred Thomas
{Tape : 1; Side : B; Approx. Tape Counter : 513 - 539}

HEARING ON SB 445

Opening Statement by Sponsor: Sen. Swysgood
{Tape : 1; Side : B; Approx. Tape Counter : 550 - 716}

Proponents' Testimony:
Rep. Tash
{Tape : 1; Side : B; Approx. Tape Counter : 731 - 801}

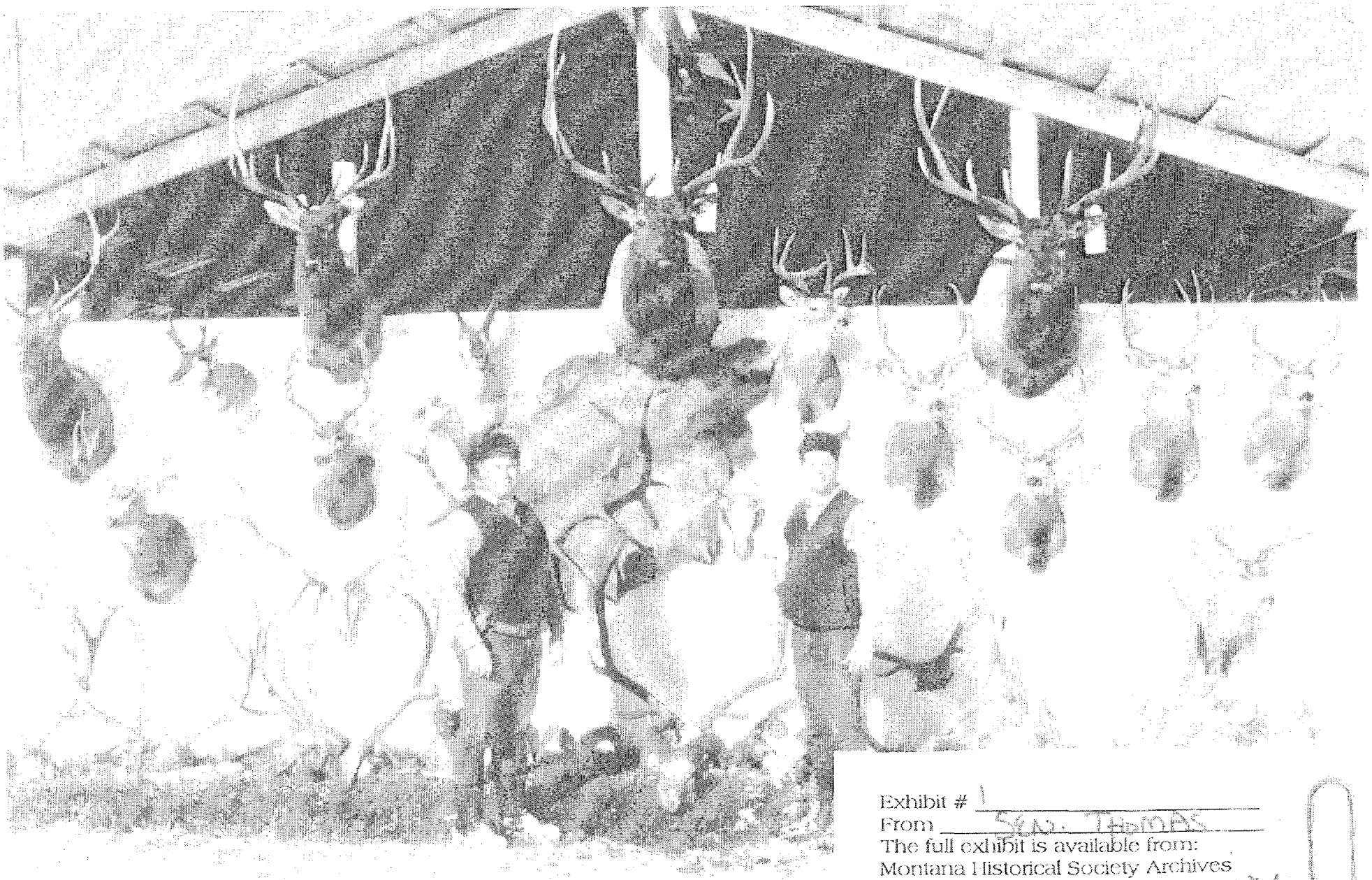


Exhibit # 1
From Sen. Thomas
The full exhibit is available from:
Montana Historical Society Archives
225 North Roberts
PO Box 201201
Helena, MT 59602-1201
Phone: (406) 444-4775

Text: missing
2 pgs

EXHIBIT 2
DATE 3-11-99
SB 458

Senate Bill 458
March 11, 1999
Presented by Arnold Olsen
Montana Fish, Wildlife & Parks
for the
House Fish, Wildlife & Parks Committee

Mr. Chairman and members of the Committee, for the record, my name is Arnie Olsen, Chief of Operations for Montana Fish, Wildlife & Parks (FWP). I support SB458 which would increase the fines and the amount of restitution paid to the State of Montana on certain "trophy" animals. These animals are uncommon and the most sought after individuals of their species by many hunters.

The purpose of this legislation is not to swell the coffers of the State of Montana, but rather to protect wildlife from poachers by serving as a deterrent to those who would unlawfully kill, take, or possess one of these coveted animals. The commercial value of a large bull elk far exceeds the restitution of $1,000 now required by law. Under SB458, the judge will have to find that the violator acted knowingly or purposely in the illegal killing before assessing restitution. Thus if a hunter accidentally shoots an animal, the hunter will not be required to pay restitution. An example would be a herd situation where a hunter shoots one game animal and the bullet passes through and kills a second animal.

Mature, male animals of this class are in demand both from a tourism perspective and by the hunter who would pay a great deal of money to have the opportunity to harvest an exceptional example of a species.

The bill allows the FWP Commission to define the size of antlers or horns in its regulations that triggers the higher restitution amounts. The public will have an opportunity for comment in the regulation setting process.

In states where a high restitution value has been put on large game animals, we are told that the incidence of commercial poaching has decreased. Under current law, a person may be less willing to resist shooting such an animal if the person's chances of getting caught are slim and, if caught, the penalties are not severe. The risks for commercial poachers go up considerably under this bill and should be an effective deterrent.

Exhibit # 3
From E-Mail
The full exhibit is available from:
Montana Historical Society Archives
225 North Roberts
PO Box 201201
Helena, MT 59602-1201
Phone: (406) 444-4775
11 pgs

Leg House

From: Rauch
Sent: Wedne
To: house
Subject: Rep. D

EXHIBIT 3
DATE 3-11-99
SB 458

-----Original Message-----
From: Rauch <rauch@bigsky.net>
To: senate <senate@state.mt.us>
Date: Monday, February 22, 1999 10:01 AM
Subject: Re:SB458

I urge you to vote "Yes" on SB 458. This citizen initiated legislation will provide much needed substantial penalties for those who intentionally poach the larger animals of Montana's various big game wildlife species, thus stealing from all citizens of the state. Stan Rauch, Victor, MT 642-6639

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: By **CHAIRMAN DOUG WAGNER**, on March 23, 1999 at 3:10 P.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Doug Wagner, Chairman (R)
Rep. Daniel Fuchs, Vice Chairman (R)
Rep. George Golie, Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. Gary Beck (D)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Tom Facey (D)
Rep. Gail Gutsche (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Joe McKenney (R)
Rep. Brad Molnar (R)
Rep. Bob Pavlovich (D)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Jim Shockley (R)
Rep. Roger Somerville (R)
Rep. Allan Walters (R)

Members Excused: None.

Members Absent: None.

Staff Present: Mikell Johnson, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: NONE
Executive Action: HB 594; HB 642; HJ 33; HB 626; HB 647; HB 341; HB 389;SB 458; SB 241; SB 381; SB 329;

Motion: **REP. MOLNAR** moved that **HB 594 DO PASS.**

Discussion: Rep. Molnar discussed a conceptual amendment.

Motion/Vote: **REP. MOLNAR** moved **HB 594 CONCEPTUAL AMENDMENT. Motion carried 18-1 with Rehbein voting no.**

Motion/Vote: **REP. MOLNAR** moved that **HB 594 BE AMENDED. Motion carried 17-2 with Rehbein and Somerville voting no.**

EXHIBIT **(fih65a01)**

Discussion: Rep. Anderson and Rehbein in opposition of bill. Fuchs is in support of bill.

Motion/Vote: **REP. PAVLOVICH** moved that **HB 594 BE TABLED. Motion failed 3-16 with Pavlovich, Rehbein, and Anderson voting aye.**

Motion/Vote: **REP. MOLNAR** moved that **HB 594 DO PASS AS AMENDED. Motion carried 15-4 with Anderson, Hanson, Pavlovich, and Rehbein voting no.**

Motion: **REP. SHOCKLEY** moved that **HB 642 DO PASS.**

Motion/Vote: **REP. FUCHS** moved that **HB 594 BE TABLED. Motion failed 7-11.**

Motion/Vote: **REP. FACEY** moved that **HB 642 BE AMENDED. Motion carried 18-1 with Wagner voting no.**

Motion/Vote: **REP. FACEY** moved that **HB 642 DO PASS AS AMENDED. Motion carried 10-9 with Davies, Fuchs, Hanson, Harper, McKenney, Molnar, Raney, Rehbein, and Wagner voting no.**

Motion: **REP. FACEY** moved that **HJ 33 DO PASS.**

Discussion: Harper; Wagner; Harper; Fuchs.

Motion/Vote: **REP. FACEY** moved that **HJ 33 BE AMENDED. Motion carried unanimously.**

Motion/Vote: **REP. FACEY** moved that **HJ 33 DO PASS AS AMENDED. Motion carried 17-2 with Anderson and Erickson voting no.**

Motion/Vote: **REP. REHBEIN** moved that **HB 341 BE AMENDED. Motion carried unanimously.**

EXHIBIT **(fih65a09)**

Motion/Vote: **REP. REHBEIN** moved that **HB 341 DO PASS AS AMENDED. Motion carried 15-5 with Anderson, Fuchs, Hanson, Molnar, and Wagner voting no.**

Motion/Vote: **REP. DAVIES** moved that **SB 458 BE CONCURRED IN. Motion carried 14-6 with Anderson, Fuchs, Hanson, McKenney, Rehbein, and Wagner voting no.**

Motion: **REP. FUCHS** moved that **SB 381 BE CONCURRED IN.**

EXHIBIT **(fih65a10)**

Motion/Vote: **REP. REHBEIN** moved that **SB 381 BE AMENDED. Motion carried 19-1 with Wagner voting no.**

EXHIBIT **(fih65a11)**

Motion/Vote: **REP. REHBEIN** moved that **SB 381 BE AMENDED. Motion carried 19-1 with Wagner voting no.**

EXHIBIT **(fih65a12)**
EXHIBIT **(fih65a13)**

Motion/Vote: **REP. HARPER** moved that **SB 381 BE CONCURRED IN AS AMENDED. Motion carried 16-4 with Fuchs, Golie, Hanson, and Wagner voting no.**

Motion: **REP. GOLIE** moved that **SB 241 BE CONCURRED IN.**

Motion/Vote: **REP. SHOCKLEY** moved that **SB 241 BE AMENDED. Motion carried unanimously.**

Motion/Vote: **REP. GOLIE** moved **SB 241 CONCEPTUAL AMENDMENT. Motion carried unanimously.**

Motion/Vote: **REP. GOLIE** moved that **SB 241 BE CONCURRED IN AS AMENDED. Motion carried 18-2 with Rehbein and Wagner voting no.**

Motion/Vote: **REP. ANDERSON** moved that **SB 329 BE TABLED. Motion carried 17-3 with Erickson, Gutsche, and Harper voting no.**

HOUSE OF REPRESENTATIVES

FISH, WILDLIFE AND PARKS COMMITTEE

ROLL CALL DATE 3/11/99

NAME	PRESENT	ABSENT	EXCUSED
REP. SHEILL ANDERSON	X		
REP. GARY BECK	X		
REP. BOB DAVIES	X		
REP. RON ERICKSON	-		
REP. TOM FACEY	X		
REP. GAIL GUTSCHE	X		
REP. MARIAN HANSON	X		
REP. HAL HARPER	X		
REP. CHASE HIBBARD			
REP. JOE MCKENNEY	X		X
REP. BRAD MOLNAR	X		
REP. BOB PAVLOVICH	X		
REP. BOB RANEY	X		
REP. BILL REHBEIN	X		
REP. JIM SHOCKLEY	X		
REP. ROGER SOMERVILLE	X		
REP. ALLAN WALTERS	X		
REP. DANIEL FUCHS VICE CHAIR	X		
REP. GEORGE GOLIE VICE CHAIR	X		
REP. DOUG WAGNER CHAIR	X		

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 3/11/99

BILL NO. SB 458 SPONSOR(S) Thomas

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
(P) O I	GREG MUNTHER	1295 LENA LN MISSOULA	MT Bowhunters Assn
(P) O I	Larry McGrath	100 Obrien Butte	Self
(P) O I	STAN RAUCH	Victor, MT	MT Bowhunters Assoc.
(P) O I	PAUL ARNOLD	22 SUNRISE DILLON	Self
P (O) I	[redacted]	[redacted]	[redacted]
P (O) I	[redacted]	[redacted]	[redacted]
P O I	[redacted]	[redacted]	
(P) O I	JOHN HERZER	610 Speedway MSLA	self
P O I			
P O I			
P O I			
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P O I			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

FISH, WILDLIFE AND PARKS COMMITTEE

ROLL CALL DATE 3-23-99

NAME	PRESENT	ABSENT	EXCUSED
REP. SHEILL ANDERSON	X		
REP. GARY BECK	X		
REP. BOB DAVIES	X		
REP. RON ERICKSON	X		
REP. TOM FACEY	X		
REP. GAIL GUTSCHE	X		
REP. MARIAN HANSON	X		
REP. HAL HARPER	X		
REP. CHASE HIBBARD	X		
REP. JOE MCKENNEY	X		
REP. BRAD MOLNAR	X		
REP. BOB PAVLOVICH	X		
REP. BOB RANEY	X		
REP. BILL REHBEIN	X		
REP. JIM SHOCKLEY	X		
REP. ROGER SOMERVILLE			
REP. ALLAN WALTERS	X		
REP. DANIEL FUCHS VICE CHAIR	X		
REP. GEORGE GOLIE VICE CHAIR	X		
REP. DOUG WAGNER CHAIR	X		

HOUSE STANDING COMMITTEE REPORT

March 24, 1999

Mr. Speaker:

We, your committee on **Fish, Wildlife and Parks** report that **Senate Bill 458** (third reading copy -- blue) **be concurred in.**

Signed: Doug Wagner
Representative Doug Wagner, Chair

To be carried by Representative Matt Brainard

- END -

Committee Vote:
Yes 14, No 6.

661016SC.ham

Proponents: **Greg Munther, MT Bowhunters Association**
Stan Rauch, MT Bowhunters Association
Pat Graham, Fish Wildlife and Parks

Opponents: None.

Opening Statement by Sponsor:

SENATOR FRED THOMAS, SD 31, Stevensville said the illegal taking of trophy big game is a serious problem in Montana. He states SB 458 raises the bar and substantially penalizes a person that would be convicted of purposely knowing or negligently taking, killing or possessing or transporting a trophy animal. He said one important detail is the common hunter who makes a mistake. This bill has some serious fines for having these animals in their possession or taking them. He said that is why they built in the language in page 3, line 9, subsection F which states what he read before. You must be convicted of purposely knowing or negligent. This is a high bar versus just having or being there. He stated if the language is not satisfactory, then he is for improving it. He thinks they have accomplished that.

He discussed section 1 which set up the significant penalties. He said they want to raise the threshold in Montana to make it a serious penalty to poach and possess game that is illegally taken. He stated this bill will make Montana a bad place to poach big game and the result of not passing the bill is to say "why not poach here in Montana where the game is good and the penalties are light."

Proponents' Testimony:

Greg Munther, MT Bowhunters Association, stated the association believes most Montanans intent to be law abiding and are law abiding when it comes to hunting and fishing. He said there are a number of people in this state who use the wide open spaces and the quality of our animals for personal gain either monitarially or for some sort of self gratification in illegally harvesting the biggest and the best of Montana's wildlife. The association believes Montana will become attractive as surrounding states raise their penalties for similar violations as has happened in Colorado and Utah. The association would like to urge support of the bill because they believe it would better balance the risks. The reward of being caught and prosecuted in a substantial way